

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

JAMES FREDERICK DUBOSE,

Defendant-Appellee.

UNPUBLISHED

May 11, 2010

No. 290629

Wayne Circuit Court

LC No. 08-016954-FH

Before: TALBOT, P.J., and FITZGERALD and M.J. KELLY, JJ.

PER CURIAM.

Defendant was bound over for trial on a charge of carrying a concealed weapon in a vehicle, MCL 750.227(1). Defendant's motion to suppress evidence of the firearms was granted and the case was then dismissed. The prosecutor appeals as of right. We reverse and remand for further proceedings. This appeal has been decided without oral argument pursuant to MCR 7.214(E).

Detroit Police Officer Juan Reynoso testified that he and his partner effectuated a traffic stop of defendant's vehicle for no record of license plate. The officers asserted that they initially followed defendant's vehicle because they failed to observe defendant's use of a turn signal. At the preliminary examination, Reynoso gave inconsistent testimony on whether there were cars between the police vehicle and defendant's vehicle that might have interfered with the officers' ability to observe the lack of a turn signal. When asked why the officers followed for approximately one-half mile without making a stop, Reynoso stated that they "weren't going to initially stop him," and then decided to "stop him anyways" because "when we ran the plate on the vehicle at first, it came back to a no record. That means there was no record in the system for it. And that's why we initiated the stop." Reynoso stated that after they stopped defendant's vehicle, he ran the vehicle identification number (VIN) rather than the license plate, and the report indicated that the vehicle was lawfully registered.

In granting the motion to suppress, the trial court found it "hard to believe" that the officers were in a position to have observed the turn signal on defendant's vehicle. The court mistakenly stated that Reynoso "indicated they were not going to stop him based upon the information not coming back in the LEIN" and that "[t]here was nothing that came up against the vehicle." The court then concluded that the officers had no reason to stop defendant's vehicle, rendering the stop illegal. We review a trial court's factual findings on a motion to suppress evidence for clear error. The trial court's conclusions of law and ultimate decision are reviewed

de novo. *People v Murphy (On Remand)*, 282 Mich App 571, 584; 766 NW2d 303 (2009) (citations omitted).

The trial court's finding that the officers could not have observed a turn signal on defendant's vehicle was not clearly erroneous. There was conflicting evidence on whether there were any cars or the number of cars that were between the patrol car and defendant's vehicle, justifying the conclusion that the officers were not in a position to have observed a turn signal. However, there was no finding that the testimony regarding the results of the initial Law Enforcement Information Network (LEIN) search on the license plate lacked credibility. Instead, the court focused on a mistaken belief that the officer had said he was not going to stop defendant based on the LEIN report. In actuality, the officer stated that he was not going to stop defendant based solely on the traffic violation, but that he *was* going to stop him based on the initial LEIN report on the license plate.

A search or seizure must be "justified at its inception" and "reasonably related in scope to the circumstances that justified the initial interference in the first place." *Terry v Ohio*, 392 US 1, 20; 88 S Ct 1868; 20 L Ed 2d 889 (1968); *People v Williams*, 472 Mich 308, 314; 696 NW2d 636 (2005). Reasonableness is based on objective facts relating to a traffic stop, not the officer's subjective state of mind. *Id.* at 314 n 7. Regardless of whether a turn signal was used or observed, the traffic stop was not initiated until after the LEIN check revealed, albeit erroneously, that a record did not exist for the vehicle. There was no evidence to indicate that the officer had reason to believe that the vehicle was in fact registered until after the VIN check was conducted. Therefore, the officers were justified in effectuating the stop of defendant's vehicle based on the information contained in the LEIN report obtained from the vehicle's license plate. Accordingly, the trial court erred in granting the motion to suppress the evidence.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Michael J. Talbot
/s/ E. Thomas Fitzgerald
/s/ Michael J. Kelly